

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 9, 2015

AMENDED IN SENATE JUNE 3, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL

No. 334

**Introduced by Senator Leyva
(Coauthors: Senators Leno and Pavley)**

February 23, 2015

An act to amend Sections 32242 and 38086 of, to add Sections 32241.5, 32246, 32247, 32248, and 32249 to, and to add Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to pupil ~~health~~ *health, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as amended, Leyva. Pupil health: drinking water.

(1) Existing law requires a school district to provide access to free, fresh drinking water during meal times in school food service areas, unless the governing board of a school district adopts a resolution stating that it is unable to comply with this requirement and demonstrating the reasons why it is unable to comply due to fiscal constraints or health and safety concerns. Existing law requires the resolution to be publicly noticed on at least 2 consecutive meeting agendas and approved by at least a majority of the governing board of the school district.

This bill would delete the provision authorizing a school district to adopt a resolution stating that it is unable to provide access to free, fresh

drinking water during meal times. The bill would instead specify that a school district shall provide access to free, fresh, and clean drinking water during meal times through the use of drinking water access points, as defined. By imposing additional duties on *public* school districts, this bill would impose a state-mandated local program.

This bill would require a school district that has drinking water sources with drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead or any other contaminant to close access to those drinking water sources, to provide alternative drinking water sources, as specified, and to notify specified persons if the school district is required to provide those alternative drinking water sources. By imposing additional duties on schools and school districts, this bill would impose a state-mandated local program.

(2) Under existing law, known as the Lead-Safe Schools Protection Act, the State Department of Public Health is required to perform various activities related to reducing the risk of exposure to lead hazards in public schools, including, among other activities, working with the State Department of Education to develop voluntary guidelines to ensure that lead hazards are minimized in the course of school repair and maintenance programs and abatement procedures. *Existing law creates in the State Treasury the Childhood Lead Poisoning Prevention Fund and makes the revenue in the fund available for expenditure, upon appropriation, for particular purposes relating to childhood lead poisoning prevention.*

This bill would repeal the requirement that the State Department of Public Health develop voluntary guidelines. The bill would instead require the State Department of Education to make information available to school districts about the United States Environmental Protection Agency's technical guidance for reducing lead in drinking water in schools. The bill would prohibit drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead from being provided at a school facility, and would require a school district that has such drinking water to identify the most urgent mitigation needs and develop a protocol or plan for mitigation. The bill would require the State Department of Public Health to conduct a one-time test of drinking water sources, as defined, at a sample of schoolsites, as specified, for lead in the drinking water, ~~and water, and~~ *would appropriate an unspecified amount from the Childhood Lead Poisoning Prevention Fund to the State Department of Public Health for these purposes. The bill* would require the data collected

through this testing to be posted on the Internet Web sites of the State Department of Education and the State Department of Public Health. The bill would require a public school that has lead-containing plumbing components to flush all drinking water sources at the beginning of each schoolday, except as provided. By imposing additional duties on public schools and school districts, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 32241.5 is added to the Education Code,
2 to read:
3 32241.5. The department shall make information available to
4 school districts, by posting on its Internet Web site or through any
5 other means for distributing information it deems effective, about
6 the United States Environmental Protection Agency's technical
7 guidance for reducing lead in drinking water in schools.
8 SEC. 2. Section 32242 of the Education Code is amended to
9 read:
10 32242. The State Department of Public Health shall do all of
11 the following:
12 (a) Design and implement a strategy for identifying the
13 characteristics of high-risk schools and provide a basis for
14 statewide estimates of the presence of lead in schools attended by
15 young children.
16 (b) Conduct a sample survey, as described in Section 32241, to
17 determine the likely extent and distribution of lead exposure to
18 children from paint on the school, soil in play areas at the school,
19 drinking water at the tap, and other potential sources identified by
20 the State Department of Public Health for this purpose. To the
21 maximum extent possible, limited sample testing shall be used to

1 validate survey results. The State Department of Public Health
2 shall compile and summarize the results of that survey and report
3 those results to the Legislature and the department.

4 (c) Within 60 days of the completion of testing a schoolsite, the
5 State Department of Public Health shall notify the principal of the
6 school or director of the schoolsite of the survey results. Within
7 45 days of receiving the survey results, the principal or director,
8 as the case may be, shall notify the teachers and other school
9 personnel and parents of the survey results.

10 (d) Make recommendations to the Legislature and the
11 department, based on the survey results and consideration of
12 appropriate federal and state standards, on the feasibility and
13 necessity of conducting statewide lead testing and any additional
14 action needed relating to lead contamination in the schools.

15 (e) As deemed necessary and appropriate in view of the survey
16 results, develop environmental lead testing methods and standards
17 to ensure the scientific integrity of results, for use by schools and
18 contractors designated by schools for that purpose.

19 (f) Evaluate the most current cost-effective lead abatement
20 technologies.

21 SEC. 3. Section 32246 is added to the Education Code, to read:
22 32246. Drinking water that does not meet the United States
23 Environmental Protection Agency drinking water standards for
24 lead shall not be provided at a school facility.

25 SEC. 4. Section 32247 is added to the Education Code, to read:
26 32247. (a) The State Department of Public Health shall conduct
27 a one-time test of drinking water sources at a sample of schoolsites
28 for lead in the drinking water. The sample shall include schools
29 that are representative of the state by geographical region, size of
30 enrollment, and areas identified pursuant to Section 39711 of the
31 Health and Safety Code. It is the intent of the Legislature to
32 prioritize testing of schoolsites that have high risk factors, as
33 described in Section 32241.

34 (b) The data collected by the State Department of Public Health
35 shall include drinking water lead testing information, including,
36 but not limited to, dates of testing, number and type of drinking
37 water sources tested, and test results. Upon collection of the data,
38 the State Department of Public Health shall notify the school
39 districts with schools that were tested of the test results.

1 (c) The State Department of Public Health and the department
2 shall do both of the following:

3 (1) Establish a process for receiving, recording, and making
4 public the data received from testing water at schoolsites.

5 (2) Post the data collected during drinking water lead testing
6 on the departments' respective Internet Web sites.

7 (d) The State Department of Public Health shall not test drinking
8 water sources that meet either of the following conditions:

9 (1) Are located at schoolsites constructed after January 1, 1993.

10 (2) Have been tested by the State Department of Public Health
11 or a certified professional employed or hired by a school district
12 and ~~meets~~ *meet* the United States Environmental Protection Agency
13 and state drinking water standards for lead.

14 (e) For purposes of this section, "drinking water source" is
15 defined as drinking water fountains and other fixtures that are
16 intended to convey water for human consumption.

17 SEC. 5. Section 32248 is added to the Education Code, to read:

18 32248. (a) A school district that has drinking water sources
19 with drinking water that does not meet the United States
20 Environmental Protection Agency drinking water standards for
21 lead shall work with the State Department of Public Health and
22 the local department of public health to identify the most urgent
23 mitigation needs and develop a protocol or plan for mitigation.

24 (b) The protocol or plan shall identify timelines and funding
25 sources for mitigation.

26 (c) The protocol or plan shall be presented to and adopted by
27 the governing board of the school district at a regularly scheduled
28 public meeting within six months of the school district's receipt
29 of the drinking water test results.

30 SEC. 6. Section 32249 is added to the Education Code, to read:

31 32249. A school that has lead-containing plumbing components
32 shall flush all drinking water sources at the beginning of each
33 schoolday, consistent with protocols recommended by the United
34 States Environmental Protection Agency. A school is not required
35 to flush drinking water sources that have been shut off or have
36 been certified as free of lead.

37 SEC. 7. Section 38086 of the Education Code is amended to
38 read:

39 38086. (a) A school district shall provide access to free, fresh,
40 and clean drinking water during meal times in the food service

1 areas of the schools under its jurisdiction, including, but not
2 necessarily limited to, areas where reimbursable meals under the
3 federal National School Lunch Program or the federal School
4 Breakfast Program are served or consumed. A school district may
5 comply with this section by, among other means, providing cups
6 and containers of water or soliciting or receiving donated bottled
7 water.

8 (b) A school district shall comply with this section through the
9 use of drinking water access points.

10 (c) For purposes of this section, “drinking water access point”
11 is defined as a station, plumbed or unplumbed, where pupils can
12 access free, fresh, and clean drinking water. An unplumbed access
13 point may include water bottles and portable water dispensers.

14 SEC. 8. Article 13 (commencing with Section 49580) is added
15 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education
16 Code, to read:

17
18 Article 13. Drinking Water
19

20 49580. (a) A school district that has drinking water sources
21 with drinking water that does not meet the United States
22 Environmental Protection Agency drinking water standards for
23 lead or any other contaminant shall close access to those drinking
24 water sources immediately upon receipt of test results or
25 notification from the public water system.

26 (b) (1) If, as a result of closing access to a drinking water source
27 pursuant to subdivision (a), a schoolsite within a school district
28 no longer has the minimum number of drinking fountains required
29 pursuant to Chapter 4 (commencing with Section 401.0) of the
30 California Plumbing Code (Part 5 of Title 24 of the California
31 Code of Regulations), the school district shall provide alternative
32 drinking water sources at that schoolsite.

33 (2) An alternative drinking water source provided pursuant to
34 this subdivision while the source of contamination is being
35 mitigated may be from plumbed or unplumbed sources. Unplumbed
36 sources may include, but are not limited to, portable water sources
37 and bottled water.

38 (c) A school district shall notify parents or legal guardians,
39 pupils, teachers, and other school personnel of drinking water test

1 results, immediately upon receipt of those test results, if the school
2 district is required to provide alternative drinking water sources.

3 SEC. 9. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

8 SEC. 10. *The sum of ____ dollars (\$____) is hereby*
9 *appropriated from the Childhood Lead Poisoning Prevention Fund*
10 *to the State Department of Public Health for purposes of*
11 *conducting the testing required by subdivision (a) of Section 32247*
12 *of the Education Code.*